IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4242 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE M.H.KADRI
and
Hon'ble MR.JUSTICE C.K.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

PATEL BAVABHAI BHIMABHAI PANSURIA
Versus
DEPUTY COLLECTOR

Appearance:
MS SEJAL K MANDAVIA for Petitioner
MR KG SHETH, Ld. AGP for Respondent Nos.1 to 4
MR KETAN A DAVE for Respondent No. 5

CORAM : MR.JUSTICE M.H.KADRI
and
MR.JUSTICE C.K.BUCH

Date of decision: 22/03/2000

ORAL JUDGEMENT {Per: Kadri, J.}

1. Rule. Mr.K.G.Sheth, learned AGP waives service of rule on behalf of respondents No.1 to 4 and Mr.A.D.Dave, learned advocate waives service of rule on behalf of respondent No.5. By consent of the learned advocates, this petition is heard today.

2. The petitioner who claims to be the owner of an agricultural land of Survey No.59 of village Sakhdavadar, District Junagadh, which came to be acquired for the public purpose of `Ozat Irrigation Scheme No.2, Junagadh, has filed this petition under Article 226 of the Constitution of India and under section 30 of the Land Acquisition Act, 1894 (hereinafter referred to as `the Act') to issue a writ or a direction against the respondents No.1 to 4 to declare the award made under Section 11 of the Act without jurisdiction, null and void, and further to direct the respondents to make reference to the competent court under Section 30 of the Act. During the course of hearing of this petition, learned AGP Mr.K.G.Sheth, on instruction from the Land Acquisition Officer Mr.Sampat, who is personally present in the court, has made a statement that the petitioner as well as respondent no.5 has preferred application under Section 18 of the Act before the respondent no.1 to make reference to the District Court for determination of the compensation of the acquired lands. The record of the petition indicate that the petitioner was served with the notices under Section 12(2) of the Act, but, subsequently as his name did not appear in the revenue record, the Land Acquisition Officer had not paid compensation of the acquired lands to the petitioner but had paid compensation of the acquired lands to the respondent No.5. The petitioner and the respondent No.5 claims to be the heirs of deceased Manji, who expired before 75 years back. We do not express any opinion whether petitioner or the respondent No.5 are the owners and occupiers of lands bearing Survey No.59 of village Sakhdavadar, but, looking to the controversy involved in this petition, we direct that the reference application filed by the petitioner be treated as application under Section 30 of the Act and the Land Acquisition Officer shall refer the said application filed by the petitioner to the District Court, Junagadh, for apportionment of the amount of the compensation. The Land Acquisition Officer shall also refer the application filed by the respondent No.5 under section 18 of the Act to the District Court, Junagadh, for determination of the market value of the acquired lands.

3. With these directions, this petition stands disposed of accordingly. Rule made absolute to the

extent indicated above with no order as to costs.

(M.H. Kadri, J.)

(C.K. Buch, J.)

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